

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
ABILENE DIVISION

JANICE B. SCHWARTZ AND ROBERT §
GAYLE AMUNDSON, PARTNERS DBA §
J & J PROPERTIES, §
§
Plaintiffs, § CIVIL ACTION NO. 1:11-CV-217-C
§
v. §
§
CENTURY SURETY COMPANY, §
§
§
Defendant. §

**DEFENDANT CENTURY SURETY COMPANY'S
DESIGNATION OF EXPERTS**

Pursuant to Rule 26 of the FEDERAL RULES OF CIVIL PROCEDURE, Plaintiff Century Surety Company ("Century") files its Designation of Experts as follows:

I.

Based on the information presently available and the issues currently presented, Century may call the following individuals as its retained expert witness:

(1) Kevin B. Hromas
16519 Curio Gray Trail
Cypress, TX 77433
713-416-8044

Mr. Hromas may testify regarding the appraisal process under a commercial property insurance policy; the details of the appraisal in this matter and the flaws in that appraisal process; the qualifications of an appraiser; the responsibilities and requirements of an appraiser; the qualifications of an umpire; the responsibilities and requirements of an umpire; whether the appraiser selected by the insured was qualified and/or disinterested; whether the appraiser selected by the insured fulfilled his

responsibilities; whether the umpire was qualified and/or disinterested; and whether the umpire fulfilled his responsibilities.

Mr. Hromas' report describes his opinions, the bases and reasons for those opinions, the information considered by him in forming those opinions, and the exhibits that support his opinions. Mr. Hromas may also testify regarding Plaintiff's expert reports and any future testimony of Plaintiff's expert witnesses on these matters. A copy of Mr. Hromas' report is attached hereto as Exhibit 1. A copy of Mr. Hromas' curriculum vitae is attached hereto as Exhibit A to his report. A list of the cases in which Mr. Hromas has testified is attached as Exhibit L to that report.

(2) Peter S. Evans
Evans Adjusters
119 Underhill Road
Mill Valley, CA 94941
Phone: (415) 381-9223
Fax: (415) 388-6510

Mr. Evans is a licensed Texas insurance adjuster. Mr. Evans will testify concerning insurance industry standards, practices, and duties, and will address Plaintiff's claims that Century breached the insurance contract, breached the duty of good faith and fair dealing and violated the Texas Insurance Code. Mr. Evans will testify to the reasonableness of Century's handling and investigation of Plaintiff's hail damage claim and of its handling and response to the requested appraisal. Mr. Evans will testify that there was a bona fide dispute about the amount owed on the claim, if any, and that Century reasonably adjusted and handled Counter-Plaintiff's property damage claim, acted reasonably during and after the appraisal process, had a reasonable basis for questioning the appraisal process, and had a reasonable basis for questioning the manner in which the appraisal was conducted.

In order to opine on Century's appropriate handling of the underlying claim and the appraisal, Mr. Evans may also testify regarding standards applicable to the appraisal process under a commercial property insurance policy; the details of the appraisal in this matter and the flaws in that appraisal

process; the qualifications of an appraiser; the responsibilities and requirements of an appraiser; the qualifications of an umpire; the responsibilities and requirements of an umpire; whether the appraiser selected by the insured was qualified and/or disinterested; whether the appraiser selected by the insured fulfilled his responsibilities; whether the umpire was qualified and/or disinterested; and whether the umpire fulfilled his responsibilities.

Mr. Evans' report describes his opinions, the bases and reasons for those opinions, the information considered by him in forming those opinions, and the exhibits that support his opinions. Mr. Evans may also testify regarding Plaintiff's expert reports and any future testimony of Plaintiff's expert witnesses on these matters. A copy of Mr. Evans' report is attached hereto as Exhibit 2. A copy of Mr. Evans' curriculum vitae is attached hereto as Exhibit A to Exhibit 2. Mr. Evans' prior trial testimony is fully set forth in the attached Exhibit B to Exhibit 2 and his deposition testimony is set forth in Exhibit C.

II.

Based on the information presently available and the issues currently presented, Century may call the following individual as its non-retained testifying expert witness:

- (1) Timothy Marshall, P.E. and Meteorologist
Haag Engineering Co.
4949 West Royal Lane
Irving, TX 75063
214-614-6500

Mr. Marshall may testify about the condition of the roofs, the extent of the hail damage, if any, to the roofs, the approximate age of the hail damage, if any, whether any hail damage occurred during the Century coverage period and, in the event any hail damage occurred during the Century coverage period, whether such damage would necessitate repair or replacement of the roofs.

Mr. Marshall's report describes his opinions, the bases and reasons for those opinions, the information considered by him in forming those opinions, and the exhibits that support his opinions. Mr. Marshall may also testify regarding Plaintiff's expert reports and any future testimony of Plaintiff's expert witnesses on these matters. A copy of Mr. Marshall's report is attached hereto as Exhibit 3. A copy of Mr. Marshall's curriculum vitae is attached hereto as Exhibit A to Exhibit 3.

III.

Century has not retained the following individual as an expert witness. The testimony which may be expected from this witness is essentially factual in nature; however, it is possible that this witness may be asked questions or may testify or have opinions regarding specialized knowledge pursuant to FEDERAL RULES OF EVIDENCE 702, 703 and 705. To that extent, Century identifies the following individual:

- (1) Clarence Estes
Wheeler, DeFusco & Associates
1509 NE 4th Ave.
Ft. Lauderdale, FL 33304
954-332-0796

Mr. Estes may testify about his inspection of the roofs, the condition of the roofs, the extent of the hail damage to the roofs, if any, and whether the existing hail damage, if any, necessitates repair or replacement of the roofs. A copy of Mr. Estes' reports are attached as Exhibits 4, 5 and 6.

IV.

Defendant Century Surety Company hereby reserves the right to elicit and offer expert testimony of any or all of the experts designated by any other party to this lawsuit, including but not limited to those designated by Plaintiff.

Century Surety Company also reserves the right to supplement, amend, or withdraw this expert designation.

Respectfully submitted,

/s/ L. Kimberly Steele
W. NEIL RAMBIN
State Bar No. 16492800
neil.rambin@sedgwicklaw.com
L. KIMBERLY STEELE
State Bar No. 04127600
kimberly.steele@sedgwicklaw.com
LISA M. HENDERSON
State Bar No. 24025423
lisa.henderson@sedgwicklaw.com

SEDGWICK LLP
1717 Main Street, Suite 5400
Dallas, TX 75201-7367
Telephone: (469) 227-8200
Facsimile: (469) 227-8004

**ATTORNEYS FOR DEFENDANT
CENTURY SURETY COMPANY**

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing document has been served upon Plaintiff's counsel on the 28th day of December, 2012 in accordance with the FEDERAL RULES OF CIVIL PROCEDURE:

H. ALAN CARMICHAEL
WETSEL & CARMICHAEL. L.L.P.
207 Oak St.
Sweetwater, TX 79556

/s/ L. Kimberly Steele
L. KIMBERLY STEELE